

REMARKS

Claims 8-19 are pending in the present application. Claims 8-17 have been amended and claims 1-7 have been cancelled without prejudice to or disclaimer of the subject matter contained therein. Claim 1 which previously listed many combinations has been replaced with claim 19 which focuses specifically on the combination of pyraclostrobin and prohexadione-Ca.

Reexamination of the application and reconsideration of the rejections and objections are respectfully requested in view of the above amendments and the following remarks, which follow the order set forth in the Office Action.

Rejections under 35 U.S.C. § 103

The Examiner rejected claims 1-6 and 8-10 under 35 U.S.C. §103(a) as being obvious over the combined teachings of Bartlett et al. (Pest Management Science, 2002, 58, 649-662.), Gullino et al. (Crop Protection, 2000, 19, 1-11), Müller et al. (WO 97/40688), Rademacher et al. (US 5,869,424), Elad (The Netherlands Journal of Plant Pathology, 1993, 99, 105-113), and Grover et al (Plant Physiology, 1976, 57, 886-889). Applicants traverse the rejection.

To expedite the prosecution of the application, applicants canceled claim 1 and replaced it with new claim 19, which is directed to a mixture of pyraclostrobin and prohexadione-Ca in a weight ratio of from 20:1 to 0.05:1. Pending claims 8-17 depend directly or ultimately from claim 19.

According to the office action, Bartlett teaches pyraclostrobin as one of six commercially available strobilurins and points to page 656 of Bartlett, which states that

of particular interest has been the consistently greater yield from strobilurin-based cereal fungicide programmes compared with triazole-based programmes in situations where both spray-programmes have delivered similar levels of visible disease control or where there has been seemingly insufficient difference in visible disease control to explain the difference in yield response.

Bartlett, page 656, left column, second paragraph. This effect has been termed as "strobilurin greening effect" and has been attributed to strobilurin's effect on ACC synthase and ethylene biosynthesis. *Id.*, at 656.

The office action asserts that Gullino teaches that "[i]n addition to the strobilurin's direct effect on pathogens, these fungicides induce physiological alterations in many crops,

particularly cereals.” Office Action, page 5. The office action further alleges that Müller teaches “combinations of pyraclostrobin with kresoxim-methyl or epoxiconazole.” *Id.* After acknowledging that neither Bartlett nor Gullino teaches combining pyraclostrobin with prohexadione-Ca or Co^{++} , the office action asserts that Elad and Grover teach that Co^{++} ions are ethylene biosynthesis inhibitors and that Rademacher teaches compositions comprising the combination of ethylene biosynthesis inhibitors and plant growth retardants, such as prohexadione-Ca. Office Action, page 6. The office then concludes that it would have been *prima facie* obvious for the skilled artisan to combine stilbilurins of Bartlett with inhibitors of biosynthesis such as Co^{++} and prohexadione-Ca.

Contrary to the office action’s assertions, there would have been no motivation to combine a pyraclostrobin with an ethylene biosynthesis inhibitor because the primary reference teaches that it is an ethylene biosynthesis inhibitor itself. Absent hindsight reconstruction in combining six prior art references, one of ordinary skill in the art would not have been motivated to arrive at the claimed composition. Further, even if there were a motivation to combine pyraclostrobin with an ethylene biosynthesis inhibitor, the office did not provide a reason why it should be combined with prohexadione-Ca at the claimed weight ratios. Applicants respectfully request withdrawal of the rejection.

For the foregoing reasons, claims 8-19 are considered allowable. A Notice to this effect is respectfully requested. If any questions remain, the Examiner is invited to contact the undersigned at the number given below.

The Director is hereby authorized to charge any appropriate fees that may be required by this paper, and to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

BRINKS HOFER GILSON & LIONE

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